

AMENDED IN ASSEMBLY APRIL 18, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1078

Introduced by Assembly Members Keene and Liu

February 22, 2005

An act to add Chapter 6.9.1 (commencing with Section 25400.10) to Division 20 of the Health and Safety Code, relating to contaminated property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1078, as amended, Keene. Contaminated property: methamphetamine.

(1) Existing law requires the Department of Toxic Substances Control to take removal actions with respect to a hazardous substance that is an illegal controlled substance, a precursor of a controlled substance, or a material intended to be used in the unlawful manufacture of controlled substances, and the department is authorized to expend funds appropriated from the Illegal Drug Lab Cleanup Account in the General Fund for this purpose.

This bill would enact the "Methamphetamine Contaminated Property Cleanup Act of 2005" and define terms. ~~The bill would require the Office of Environmental Health Hazard Assessment, on or before July 1, 2006, to establish a research program regarding hazardous chemicals that are used in methamphetamine laboratory activities and would require the Department of Toxic Substances Control, on or before January 1, 2007, to adopt regulations for preliminary site assessment criteria, and cleanup and remediation.~~ The bill would specify the human occupancy standards for property that is subject to the act, and those standards would remain in effect until ~~the effective date of the regulations~~ *the Department of Toxic Substances,*

in consultation with the Office of Environmental Health Hazard Assessment, develops standards to determine when a property contaminated by methamphetamine laboratory activity is safe for human occupancy.

The bill would require a local health officer to take specified actions after receiving notification from a law enforcement agency of potential contamination of property by a methamphetamine laboratory activity, thereby imposing a state-mandated local program by imposing new duties upon local agencies. The bill would authorize a local health officer to delegate all or part of the duties specified in the act to a designated local agency, as defined.

The bill would require a local health officer who determines, after conducting an inspection, that property is contaminated, to issue a specified order prohibiting use or occupancy and to post the order on the property, as specified. *The bill would require the local health officer to record with the county recorder a lien and the issued order on the property.*

The bill would require a property owner who receives an order that property owned by that person is contaminated by a methamphetamine laboratory activity, or a property owner who owns property that is the subject of an order, to take specified actions, including vacating occupants and retaining a methamphetamine laboratory site remediation firm that is an authorized contractor certified by the State Department of Health Services (department), pursuant to procedures specified in the act.

The bill would also require the property owner or the property owner's authorized contractor to submit a preliminary site assessment (PSA) work plan to the local health officer for review. The bill would require the local health officer to inform the property owner or contractor in writing of any deficiencies in the PSA work plan. The bill would require a property owner or authorized contractor to prepare and submit a PSA report to the local health officer after the completion of the preliminary site assessment and would require the property owner to complete remediation no later than 90 days after the date that the property owner receives the order, or no later than 95 days after the date of posting of the order on the property, whichever date is later, except as extended by the local health officer.

The bill would require a local health officer to issue a no further action determination if the local health officer determines *that* remediation is not required at a property, based on the PSA report or,

if the site has been remediated, as specified. *The bill would require the local health officer to record with the county recorder a release of the lien recorded pursuant to this bill and a release stating the property was remediated, as required, and is habitable, if he or she determines that remediation is not required at the property or the property has been remediated, as specified.* The bill would require a property owner who has not received a “no further action determination” to notify prospective buyers and tenants, as specified.

The bill would allow a city ~~or~~, county, *or city and county* to either remediate property that is not remediated in compliance with an order issued pursuant to the act, or seek a court order to require the property owner to remediate the property. The bill would also allow a city or county to remediate property for which the local health officer is unable to locate the property owner. The bill would require a property owner to be liable for, and pay the city or county for, all costs related to the remediation, if a city ~~or~~, county, *or city and county* elects to remediate the contaminated property. *The bill would authorize the city, county, or city and county to imposed a nuisance abatement lien if the property owner fails to pay for the costs of remediation.*

The bill would require a local health officer to establish a written plan outlining the procedures to be followed for conducting remediation to property for purposes of the act, including the preparation of a PSA work plan, the conduct of a preliminary site assessment to determine the extent and level of contamination in accordance with that PSA work plan, and the preparation of a PSA report containing the results of the preliminary site assessment and recommended remedial actions.

The bill would require the department, by January 1, 2007, to adopt regulations establishing performance standards for contractors, and would prohibit a person, after July 1, 2007, from performing any remediation activities pursuant to the act, including any decontamination, demolition, or disposal, unless the person is an authorized contractor, as defined.

The bill would provide for the imposition of a civil penalty upon a property owner who does not provide a notice or disclosure required by the act, or upon a person who violates an order issued by the local health officer prohibiting the use or occupancy of a property contaminated by a methamphetamine laboratory activity.

The bill would also impose liability for specified costs regarding testing, remediation, and administrative enforcement and oversight upon a property owner who receives an order.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 6.9.1 (commencing with Section
2 25400.10) is added to Division 20 of the Health and Safety Code,
3 to read:

4
5 CHAPTER 6.9.1. METHAMPHETAMINE CONTAMINATED
6 PROPERTY CLEANUP ACT OF 2005
7

8 Article 1. Findings and Definitions:
9

10 25400.10. (a) The Legislature finds and declares all of the
11 following:

12 (1) Methamphetamine use and production is growing
13 throughout the state. Properties ~~are being~~ *may be* contaminated
14 by hazardous chemicals used or produced in the manufacture of
15 methamphetamine *where those chemicals remain and where the*
16 *contamination has not been remediated.*

17 (2) Initial cleanup actions ~~are~~ *may be* limited to the removal of
18 bulk hazardous materials and associated glassware that pose an
19 immediate threat to public health and the environment. Where
20 methamphetamine production has occurred, significant levels of
21 contamination ~~will be found throughout residential properties~~
22 *may be found throughout residential properties if the*
23 *contamination is not remediated.*

1 (3) Once methamphetamine laboratories have been closed,
2 ~~innocent members of the public may be harmed by the materials~~
3 ~~and residues that remain when these contaminated properties~~
4 ~~either lay vacant, are rented, or sold.~~

5 (4) There is no statewide standardization of standards for
6 determining when a site of a closed methamphetamine laboratory
7 has been successfully remediated.

8 (b) This chapter shall be known, and may be cited as, the
9 “Methamphetamine Contaminated Property Cleanup Act of
10 2005.”

11 25400.11. For purposes of this chapter, the following
12 definitions shall apply:

13 (a) (1) On and after July 1, 2007 “authorized contractor”
14 means a person who is certified by the department pursuant to
15 Section 25400.40.

16 (2) On and before June 30, 2007, “authorized contractor”
17 means a person who is a professional engineer registered in this
18 state pursuant to Chapter 7 (commencing with Section 6700) of
19 Division 3 of the Business and Professions Code or who is a
20 certified industrial hygienist pursuant to Chapter 7 (commencing
21 with Section 20700) of Division 8 of the Business and
22 Professions Code.

23 (b) “Certificate” means a written approval issued by the
24 department pursuant to this chapter.

25 (c) “Certified” means a person to whom the department issues
26 a written approval under this chapter.

27 (d) “Contaminated” or “contamination” means property
28 polluted by a hazardous chemical so that the property is unfit for
29 human habitation ~~or use due to immediate or long-term hazards.~~

30 (e) “Controlled substance” has the same meaning as defined in
31 Section 11007.

32 (f) “Decontamination” means the process of reducing the level
33 of a known contaminant to a level that is deemed safe for human
34 reoccupancy, as established pursuant to Section 25400.15 or
35 25400.16, as applicable, using currently available methods and
36 processes.

37 (g) “Department” mean the State Department of Health
38 Services.

39 (h) “Designated local agency” means a ~~county or city~~ city,
40 *county or city and county* agency designated by the local health

1 officer to carry out all, or any portion of, responsibilities assigned
2 to the local health officer as specified by this chapter. The local
3 health officer may authorize any of the following to serve as a
4 designated local agency:

5 (1) The certified unified program agency or CUPA, ~~for that~~
6 ~~city or county~~, as certified pursuant to Chapter 6.11
7 (commencing with Section 25404).

8 (2) The fire department or environmental health department ~~of~~
9 ~~that city or county~~.

10 (3) The local agency responsible for enforcement of the State
11 Housing Law (Part 1.5 (commencing with Section 17910) of
12 Division 13).

13 (i) “Disposal of contaminated property” means the disposal of
14 property that is a hazardous waste in accordance with Chapter 6.5
15 (commencing with Section 25100).

16 (j) “Hazardous chemical” means a chemical that is ~~believed by~~
17 ~~the chief of a law enforcement agency or a determined by the~~
18 local health officer, ~~or his or her designee~~, to be toxic,
19 carcinogenic, explosive, corrosive, or flammable, ~~and that is~~
20 ~~believed by the chief of the law enforcement agency or local~~
21 ~~health officer, or his or her designee, to have been~~ *that was* used
22 or intended to have, been used in the manufacture *or storage* of
23 methamphetamine that is prohibited by Section 11383.

24 (k) “Illegal methamphetamine manufacturing or storage site”
25 or “site” means property where a person manufactures
26 methamphetamine or stores methamphetamine or a hazardous
27 chemical; ~~or property on which a law enforcement agency, a~~
28 ~~local health officer, or the property owner believes that a person~~
29 ~~manufactured methamphetamine or stored methamphetamine or~~
30 ~~a hazardous chemical at the property; and this manufacture or~~
31 ~~storage is prohibited by Section 11383.~~ *used in connection with*
32 *the manufacturing or storage and in violation of Section 11383.*

33 (l) “Local health officer” means a county health officer, city
34 health officer, or county director of environmental health, or an
35 authorized representative of that local health officer.

36 (m) “Methamphetamine laboratory activity” means an activity
37 that is conducted at an illegal methamphetamine manufacturing
38 or storage site.

39 (n) “Office” means the Office of Environmental Health
40 Hazard Assessment.

(o) “Posting” means attaching a written or printed announcement conspicuously on property that is ~~suspected to be, or is determined to be,~~ *determined to be* contaminated by a methamphetamine laboratory activity or the storage of methamphetamine or a hazardous chemical.

(p) “Preliminary site assessment work plan” or “PSA work plan” means a plan to conduct activities to determine the extent and level of contamination of ~~a suspected~~ *an* illegal methamphetamine manufacturing or storage site and that is prepared in accordance with the requirements of Section 25400.36.

(q) “Preliminary site assessment” or “PSA” mean the activities taken to determine the extent and level of contamination of a ~~suspected~~ *an* illegal methamphetamine manufacturing or storage site that is conducted in accordance with an approved PSA work plan.

(r) “Preliminary site assessment report” or “PSA report” means a determination that the levels of contamination at a ~~suspected~~ *an* illegal methamphetamine manufacturing or storage site require remediation, including a recommendation for the remedial actions required for the site to meet human occupancy standards, and that is prepared in accordance with Section 25400.37.

(s) “Property” means any ~~site, lot,~~ parcel of land, structure, or part of a structure ~~involved in where~~ the manufacture of methamphetamine or storage of methamphetamine or a hazardous chemical that is prohibited by Section 11383, ~~including, but not limited to, any of the following:~~

~~(1) A single-family residence, a residential unit or multiplex, a condominium, or an apartment building.~~

~~(2) A motel or hotel.~~

~~(3) A boat, motor vehicle, or trailer.~~

~~(4) Manufactured housing.~~

~~(5) A ship, booth, or garden.~~

~~(6) Any site, lot, parcel of land, structure, or part of structure that may be contaminated by a previous use, including, but not limited to, a mobile home or recreational space park.~~

occurred, including, manufactured housing and mobilehome.

1 (t) “Property owner” means a person ~~with a lawful right of~~
2 ~~possession of owning real~~ property by reason of obtaining it by
3 purchase, exchange, gift, lease, inheritance, or legal action.

4 (u) “Storage site” means any property used for the storage of a
5 hazardous chemical or methamphetamine that is prohibited by
6 Section 11383.

7 (v) “Warning” means a sign posted by the local health officer
8 ~~conspicuously on the site of an illegal methamphetamine~~
9 ~~manufacturing or storage site informing potential occupants that~~
10 ~~hazardous chemicals may exist on, or have been removed from,~~
11 ~~conspicuously on property where methamphetamine was~~
12 ~~manufactured or stored, informing occupants that hazardous~~
13 ~~chemicals exist on the premises and that entry is unsafe.~~

14 25400.12. Any term not defined expressly by this article shall
15 have the same meaning as defined in Chapter 6.8 (commencing
16 with Section 25300).

17
18 Article 2. Establishment of Remediation and Re-occupancy
19 Standards
20

21 ~~25400.15. (a) On or before July 1, 2006, the Office of~~
22 ~~Environmental Health Hazard Assessment shall establish a~~
23 ~~research program to do all of the following:~~

24 ~~(1) Identify hazardous chemicals that are used in~~
25 ~~methamphetamine laboratory activities and that are toxic,~~
26 ~~carcinogenic, explosive, corrosive, or flammable.~~

27 ~~(2) Develop standards to determine when a property~~
28 ~~contaminated by methamphetamine laboratory activity is safe for~~
29 ~~human occupancy.~~

30 ~~(b) On or before January 1, 2007, the Department of Toxic~~
31 ~~Substances Control in consultation with the office, shall adopt~~
32 ~~regulations establishing practical and cost-effective guidelines~~
33 ~~and procedures for doing both of the following:~~

34 ~~(1) Preliminary site assessment criteria for a property~~
35 ~~contaminated by a methamphetamine laboratory activity,~~
36 ~~including development of a sample and analysis plan.~~

37 ~~(2) Cleanup and remediation.~~

38 25400.16. ~~Until the effective date of the regulations required~~
39 ~~to be adopted pursuant to Section 25400.15, if a suspected~~ *Until*
40 *such time as the Department of Toxic Substances Control, in*

1 *consultation with the Office of Environmental Health Hazard*
2 *Assessment, develops standards to determine when a property*
3 *contaminated by methamphetamine laboratory activity is safe for*
4 *human occupancy, if methamphetamine laboratory activity has*
5 *taken place at a property, the property is safe for human*
6 *occupancy for purposes of this chapter only if all of the following*
7 *standards are met with regard to that property:*

8 (a) A methamphetamine level that is less than, or equal to, 0.1
9 ~~micro grams~~ *micrograms* per 100 square centimeters.

10 (b) A total level of lead that is less than, or equal to, 20 ~~micro~~
11 ~~grams~~ *micrograms* per square foot.

12 (c) A level of mercury that is less than, or equal to, 50 ~~nano~~
13 ~~grams~~ *nanograms* per cubic meter in air.

14 15 Article 3. Local Health Officer Responsibilities

16
17 25400.17. (a) *Notwithstanding any provision of law, a city,*
18 *county, or city and county shall comply with the uniform*
19 *regulations and standards established pursuant to this chapter.*

20 (b) A local health officer may delegate all or part of the duties
21 specified in this chapter to a designated local agency.

22 ~~(b) If a suspected methamphetamine laboratory activity has~~
23 ~~taken place at a property, the local health officer and any~~
24 ~~employee, representative, or contractor of a state or local agency~~
25 ~~shall assume that the methamphetamine manufacturing process~~
26 ~~has led to some degree of chemical contamination within the~~
27 ~~structure, and possibly the surrounding property, and take action~~
28 ~~pursuant to this chapter.~~

29 (c) *If a methamphetamine laboratory activity has taken place*
30 *at a property, the local health officer shall assume that the*
31 *methamphetamine manufacturing process has led to some degree*
32 *of chemical contamination and shall take action pursuant to this*
33 *chapter.*

34 25400.18. Within ~~three working days~~ *48 hours* after receiving
35 notification from a law enforcement agency of potential
36 contamination of property by a methamphetamine laboratory
37 activity, the local health officer shall post a written notice in a
38 prominent location on the premises of the property. ~~As~~ *At* a
39 minimum, the notice shall include all of the following
40 information:

- 1 (a) The word “WARNING” ~~is~~ *in* large bold type at the top and
2 bottom of the notice.
- 3 (b) A statement that a methamphetamine laboratory was seized
4 on the property.
- 5 (c) The date of the seizure.
- 6 (d) The address or location of the property including the
7 identification of any dwelling unit, room number, apartment
8 number, ~~or vehicle or boat identification number or mobilehome~~
9 *or manufactured home identification number*.
- 10 (e) The name and contact telephone number of the agency
11 posting the property.
- 12 (f) A statement specifying that hazardous substances, toxic
13 chemicals, or other hazardous waste products ~~may be still are~~
14 present on the property.
- 15 (g) A statement that it is unlawful for an unauthorized person
16 to enter the contaminated portion of the property until advised
17 that it is safe to do so by the local health officer or designated
18 local agency.
- 19 (h) A statement that a person disturbing or destroying the
20 posted notice is subject to a civil penalty in an amount of up to
21 five thousand dollars (\$5,000).
- 22 (i) A statement that a person violating the posted notice is
23 subject to a civil penalty in an amount of up to five thousand
24 dollars (\$5,000).
- 25 25400.19. Within ~~10~~ *five* working days after receiving a
26 notification from a law enforcement agency of ~~potential~~
27 contamination of a property by a methamphetamine laboratory
28 activity, or upon notification from the property owner, the local
29 health officer shall inspect the property pursuant to this section.
- 30 (a) The property inspection shall include, but not be limited to,
31 obtaining evidence of hazardous chemical use or storage and
32 documentation of evidence of any chemical stains, cooking
33 activity and release or spillage of hazardous chemicals *used to*
34 *manufacture methamphetamine*.
- 35 (b) In conducting an inspection pursuant to this section, the
36 local health officer may request copies of any law enforcement
37 reports, forensic chemist reports, and any hazardous waste
38 manifests, to evaluate all of the following:
- 39 (1) The length of time the property was used as an illegal
40 methamphetamine manufacturing or storage site.

1 (2) The extent of the property actually used and contaminated
2 in the manufacture of methamphetamine or the storage of
3 methamphetamine or a hazardous chemical.

4 (3) The chemical process that was involved in the illegal
5 methamphetamine manufacturing.

6 (4) The chemicals that were removed from the scene.

7 (5) The location of the illegal methamphetamine
8 manufacturing or storage site in relation to the habitable areas of
9 the property.

10 25400.20. (a) Upon completing an inspection pursuant to
11 Section 25400.19, the local health officer shall *immediately*
12 determine whether the property is contaminated.

13 (b) If the local health officer determines the property is
14 contaminated, the local health officer shall *immediately* take the
15 actions specified in Section 25400.21.

16 (c) If the local health officer determines that the property is
17 not contaminated, within ~~10~~ *three* working days after making that
18 determination, the local health officer shall *remove all notices*
19 *posted pursuant to Section 25400.18 and* prepare a written
20 documentation of this determination, which shall include all of
21 the following:

22 (1) Findings and conclusions.

23 (2) Name of the property owner, and, if applicable, mailing
24 and street address of the property, or vehicle identification
25 number or license number, if applicable.

26 (3) Parcel identification number, if applicable.

27 (d) Within 10 working days after preparing a written
28 documentation of the determination made pursuant to subdivision
29 (c) that the property is not contaminated, the local health officer
30 ~~shall provide a copy of the written determination to the county~~
31 ~~recorder, who shall file that information with the property record,~~
32 ~~and send a copy of the determination to the property owner, to~~
33 *shall send a copy of the documentation to the property owner, to*
34 the local agency responsible for the State Housing Law (Part 1.5
35 (commencing with Section 17910) of Division 13, and to the
36 department.

37 25400.21. If ~~a~~ *the* local health officer determines that
38 property is contaminated pursuant to subdivision (b) of Section
39 25400.20, the local health officer shall notify the department in

1 writing within 10 working days after the date of that
2 determination. This notification shall include all of the following:

- 3 (a) Description of the findings and conclusions.
- 4 (b) Name of the property owner, and mailing and street
5 address, including ZIP Code and county of the property owner.
- 6 (c) Description of the property, including mailing and street
7 address of the property.
- 8 (d) Parcel identification number, if applicable.
- 9 ~~(e) Vehicle identification number or license number, if~~
10 ~~applicable.~~
- 11 ~~(f)~~
- 12 (e) Date the property was determined to be contaminated.
- 13 ~~(g)~~
- 14 (f) A determination as to whether an authorized contractor is
15 required for decontamination.

16 25400.22. (a) No later than 10 working days after the date
17 when a local health officer determines that property is
18 contaminated pursuant to subdivision (b) of Section 25400.20,
19 the local health officer shall issue an order pursuant to this
20 section prohibiting use or occupancy. *officer shall do both of the*
21 *following:*

22 (1) *Record with the county recorder a lien on the property.*
23 *The lien shall specify all of the following:*

24 (A) *The name of the agency on whose behalf the lien is*
25 *imposed.*

26 (B) *The date on which the property is determined to be*
27 *contaminated.*

28 (C) *The legal description assessor's parcel number.*

29 (D) *The record owner of the property.*

30 (E) *The amount of the lien, which shall be _____ or the costs*
31 *incurred by the local health officer in compliance with this*
32 *chapter, including, but not limited to, the cost of inspection*
33 *performed pursuant to Section 25400.20 and the county*
34 *recorder's fee.*

35 (2) *Issue to persons specified in subdivisions (c), (e), and (f)*
36 *an order prohibiting the use or occupancy of the property.*

37 (b) *The county recorder's fees for recording and indexing*
38 *documents provided for in this subdivision shall be in the amount*
39 *specified in Section 27361 of the Government Code.*

1 (c) *The lien recorded pursuant to subdivision (a) shall have*
2 *the force, effect, and priority of a judgement lien. The local*
3 *health officer shall not release the lien until both of the following*
4 *occur:*

5 (1) *The property owner satisfies the lien.*

6 (2) *The local health officer issues a release pursuant to*
7 *Section 25400.27.*

8 ~~(a)–~~

9 (d) Except as otherwise specified in this section, an order
10 issued pursuant to this section shall be served, either personally
11 or by certified mail, return receipt requested, to all known
12 occupants of the property and to all persons who have an interest
13 in the property, as shown upon the records of the recorder's
14 office of the county in which the property is located.

15 ~~(b) If the whereabouts of a person described in subdivision (a)~~

16 (e) *If the whereabouts of the person described in subdivision*
17 *(d) are unknown and cannot be ascertained by the local health*
18 *officer, in the exercise of reasonable diligence, and the local*
19 *health officer makes an affidavit to that effect, the local health*
20 *officer shall serve the order by personal service or by mailing a*
21 *copy of the order by certified mail, postage prepaid, return*
22 *receipt requested, as follows:*

23 (1) The order shall be served to each person at the address
24 appearing on the last equalized tax assessment roll of the county
25 where the property is located, *and to all occupants of the affected*
26 *unit.*

27 (2) The order shall be served at the address known to the
28 county recorder.

29 ~~(e) Except as provided in subdivisions (d) and (e), the local~~

30 (f) *Except as provided in subdivision (g), the local health*
31 *officer shall also mail a copy of the order required by this section*
32 *to the address of each person or party having a recorded right,*
33 *title, estate, lien, or interest in the property and to the association*
34 *of common interest development as defined in Section 1351 of the*
35 *Civil Code.*

36 ~~(d) If the affected property is a motor vehicle, motorhome,~~
37 ~~recreational vehicle, boat, or trailer, the order issued by the local~~
38 ~~health officer shall be served, either personally or by certified~~
39 ~~mail, return receipt requested, to all known persons having an~~
40 ~~interest in the property, including owners and holders of liens or~~

1 security interests against the property, as shown upon the records
2 of the Department of Motor Vehicles.

3 ~~(e) In addition to the requirements of subdivision (d), if the~~
4 ~~affected property is a mobile home or recreational vehicle in a~~
5 ~~space rental park, the order issued by the local health officer shall~~
6 ~~also be served, either personally or by certified mail, return~~
7 ~~receipt requested, to the owner of the space rental park.~~

8 ~~(f)–~~

9 (h) The order issued pursuant to this section shall include all
10 of the following information:

11 (1) A description of the property;
12 (2) The parcel identification number, if applicable;
13 (3) The vehicle identification number or license number, if
14 applicable.

15 (4) A description of the local health officer's intended course
16 of action.

17 (5) A specification of the penalties for noncompliance with the
18 order.

19 (6) A prohibition on the use of all or portions of the property
20 as long as the property is *that are* contaminated.

21 (7) A description of the measures the property owner is
22 required to take to decontaminate the property.

23 (8) An indication of the potential health hazards involved.

24 (9) A statement that a property owner who fails to provide a
25 notice or disclosure that is required by this chapter is subject to a
26 civil penalty of up to five thousand dollars (\$5,000).

27 ~~(g)–~~

28 (i) The local health officer shall provide a copy of the order to
29 the local building or code enforcement agency or other
30 appropriate agency responsible for the *enforcement of the* State
31 Housing Law (Part 1.5 (commencing with Section 17910) of
32 Division 13).

33 ~~(h)–~~

34 (j) The local health officer shall post the order in a
35 conspicuous place on the property within one working day of the
36 date that the order is issued.

Article 4. Site Assessment and Remediation

25400.25. ~~(a)~~ A property owner who receives an order issued pursuant to Section 25400.22 that property owned by that person is contaminated by a methamphetamine laboratory activity, a property owner who owns property that is the subject of an order posted pursuant to subdivision (h) of Section 25400.22, and a person occupying property that is the subject of the order, shall ~~take the following actions with regard to the property identified in the order or subject to that posting:~~

~~(1) Upon receiving the order, or following the posting of the property, the property owner shall promptly act to vacate all occupants from those parts of a structure or property identified by the order to be contaminated by the methamphetamine laboratory activity, including, but not limited to, a dwelling, building, motor vehicle, trailer, boat, appliance, or any other affected area or location.~~

~~(2) No later than 10 days after the date of the posting, a person occupying property that is the subject of an order posted pursuant to subdivision (h) of Section 25400.22 shall vacate those parts of the structure or property identified in the order.~~

~~(3) No later than 10 days after receiving the order, or following the date of posting, the property owner shall notify the local health officer that the affected parts of the dwelling, building, or motor vehicle have been and will remain vacated and secured.~~

~~(4) immediately vacate the affected unit that is determined to be in a hazardous zone by the local health officer. No later than 30 days after receipt of the order, or no later than 35 days following the date of posting of the order on the property, the property owner shall demonstrate to the local health officer that the property owner has retained a methamphetamine laboratory site remediation firm that is an authorized contractor certified pursuant to Section 25400.40.~~

~~(b) If after five working days following the serving of an order to a property owner pursuant to Section 25400.22, or after 10 working days of the date the order is posted pursuant to subdivision (h) of Section 25400.22, the local health officer is unable to obtain a reasonable assurance or plan from the property owner or occupant that the property is being properly vacated,~~

1 ~~cleaned, or remediated, the local health officer shall do all of the~~
2 ~~following:~~

3 ~~(1) Provide a copy of the order to the county recorder of the~~
4 ~~county where the property is located and to the lien and mortgage~~
5 ~~holders of the affected structure and property. The county~~
6 ~~recorder may file that information with the property record.~~

7 ~~(2) Provide a copy of the order to the Department of Motor~~
8 ~~Vehicles and the holders of liens or security interests against the~~
9 ~~vehicle, boat, or trailer when the affected property is a motor~~
10 ~~vehicle, motorhome, recreational vehicle, boat, or trailer.~~

11 25400.26. (a) A property owner who receives an order issued
12 pursuant to Section 25400.22 that property owned by that person
13 is contaminated by a methamphetamine laboratory activity, or a
14 property owner who owns property that is the subject of an order
15 posted pursuant to subdivision (h) of Section 25400.22, shall
16 utilize the services of an authorized contractor to remediate the
17 contamination caused by the methamphetamine laboratory
18 activity, in accordance with the procedures specified in this
19 section.

20 ~~(b) The property owner shall keep all required records~~
21 ~~documenting decontamination procedures.~~

22 *(b) The property owner and the local health officer shall keep*
23 *all required records documenting decontamination procedures*
24 *for three years following certification that the property is*
25 *habitable.*

26 (c) The property owner or the property owner's authorized
27 contractor shall submit a preliminary site assessment work plan
28 to the local health officer for review.

29 (d) (1) No later than 10 working days after the date the PSA
30 work plan is submitted by the property owner ~~or authorized~~
31 ~~contractor~~, the local health officer shall review the PSA work
32 plan to determine whether the PSA work plan complies with this
33 chapter, including the procedures established pursuant to Section
34 25400.35.

35 (2) If there are any deficiencies in a submitted PSA work plan,
36 the local health officer shall inform the property owner ~~or~~ *and*
37 authorized contractor, in writing, of those deficiencies no later
38 than 15 days of the date that the PSA work plan was submitted to
39 the local health officer.

1 (3) If the local health officer approves the plan, the local
2 health officer shall inform in writing, the property owner ~~or~~ *and*
3 authorized contractor no later than 15 days of the date that the
4 PSA work plan was submitted to the local health officer.

5 (e) (1) After a ~~preliminary site assessment~~ *PSA* is completed
6 in accordance with the PSA work plan, the property owner ~~or~~
7 *and* authorized contractor shall prepare a PSA report in
8 accordance with Section 25400.37 and submit the PSA report to
9 the local health officer.

10 (2) If after a ~~preliminary site assessment~~ *PSA* is completed in
11 accordance with a PSA work plan, and the local health officer,
12 upon review of the PSA report determines there is no level of
13 contamination at a site that requires remediation, the local health
14 officer shall take the actions specified in Section 25400.27.

15 (f) The property owner shall complete remediation of all
16 applicable portions of the contaminated property in accordance
17 with this chapter no later than 90 days after the date that the
18 ~~property owner receives the order issued pursuant to Section~~
19 ~~25400.22, or no later than 95 days after the date of posting on the~~
20 ~~property pursuant to subdivision (h) of Section 25400.22,~~
21 ~~whichever date is later. A local health officer may extend the~~
22 *PSA work plan has been approved by the local health officer.*
23 *The local health officer may extend the date for completion*
24 *remediation, in writing.*

25 25400.27. If a local health officer determines that property
26 that has been the subject of a PSA report has been remediated in
27 accordance with this chapter, or if the local health officer makes
28 the determination specified in paragraph (2) of subdivision (e) of
29 Section 25400.26, the local health officer shall issue a no further
30 action determination and, within 10 working days of that date of
31 making the determination, do all of the following:

32 ~~(a) Record a release for reuse document in the real property~~
33 ~~records of the county recorder where the property is located, and~~
34 ~~submit a notice to the lien and mortgage holders of the affected~~
35 ~~structure and properties, indicating that the property was~~
36 ~~remediated in accordance with this chapter.~~

37 ~~(a) Release the lien recorded with the county recorder~~
38 ~~pursuant to subdivision (a) of Section 25400.22.~~

39 (b) Send a copy of the release *stating the property was*
40 *remediated in accordance with this chapter and is habitable to*

1 the property owner, local agency responsible for the enforcement
2 of the State Housing Law (Part 1.5 (commencing with Section
3 17910) of Division 13, ~~and the department, and all recipients~~
4 ~~pursuant to this section and Section 25400.22.~~

5 ~~(e) Notify the Department of Motor Vehicles and the holders~~
6 ~~of liens or security interests against the property, if the affected~~
7 ~~property is a motor vehicle, motor home, recreational vehicle,~~
8 ~~boat, or trailer.~~

9 25400.28. Until a property owner subject to Section 25400.25
10 receives a notice from a local health officer pursuant to Section
11 25400.27 that the property identified in an order requires no
12 further action, all of the following shall apply to that property:

13 ~~(a) No later than five days after a prospective buyer signs a~~
14 ~~contract to purchase the property identified in the order, the~~
15 ~~property owner shall notify the prospective buyer in writing of all~~
16 ~~methamphetamine laboratory activities that have taken place on~~
17 ~~the property, and provide the prospective buyer with a copy of~~
18 ~~the order. The prospective buyer shall acknowledge receipt of the~~
19 ~~notice and order and may cancel the real estate purchase contract~~
20 ~~within five days after receiving the notice and order, and shall~~
21 ~~not be subject to any liability or damages for cancelling the~~
22 ~~purchase. If the property owner does not comply with this~~
23 ~~subdivision, the buyer may void the purchase contract.~~

24 ~~(b) The property owner or the property owners's agents shall~~
25 ~~provide written notice to all prospective tenants for a dwelling~~
26 ~~unit or other property of all methamphetamine laboratory~~
27 ~~activities that have taken place in, or that have impacted the~~
28 ~~dwelling unit or property, and shall provide the prospective~~
29 ~~tenant buyer with a copy of the order. The prospective tenant~~
30 ~~shall acknowledge receipt of the notice and order before taking~~
31 ~~possession of the dwelling unit or before signing a rental~~
32 ~~agreement for the dwelling unit or property. The notice shall be~~
33 ~~attached to the rental agreement. If the property owner or his or~~
34 ~~her agent do not comply with this subdivision, the prospective~~
35 ~~tenant may void the rental agreement.~~

36 ~~(a) Except as otherwise agreed to by contract with the times~~
37 ~~specified in Article 1.5(commencing with Section 1102) of~~
38 ~~Chapter 2 of Title 4 of Part 4 of Division 1 of the Civil Code, the~~
39 ~~property owner shall notify the prospective buyer in writing of~~
40 ~~the pending order, and provide the prospective buyer with a copy~~

1 *of the pending order. The prospective buyer shall acknowledge,*
2 *in writing, the receipt of a copy of the pending order.*

3 *(b) The property owner shall provide written notice to all*
4 *prospective tenants that have completed an application to rent an*
5 *affected dwelling unit or other property of the remediation order,*
6 *and shall provide the prospective tenant with a copy of the order.*
7 *The prospective tenant shall acknowledge, in writing, the receipt*
8 *of the notice and pending order before signing a rental*
9 *agreement. The notice shall be attached to the rental agreement.*
10 *If the property owner does not comply with this subdivision, the*
11 *prospective tenant may void the rental agreement.*

12 *(c) If a ~~motor vehicle, mobile home, recreational vehicle, boat,~~*
13 *~~or trailer~~ mobilehome or manufactured home was the subject of*
14 *the order issued by the local health officer pursuant to Section*
15 *25400.22 or the subject of a notice posted pursuant to subdivision*
16 *(h) of Section 25400.22, the ~~motor vehicle, mobile home,~~*
17 *~~recreational vehicle, boat, or trailer~~ mobilehome or manufactured*
18 *home shall not be sold or rented until the owner notifies the*
19 *owner's agent, the prospective buyer, or tenant, in writing of all*
20 *methamphetamine laboratory activities that have taken place in*
21 *the ~~motor vehicle, mobile home, recreational vehicle, boat, or~~*
22 *~~trailer~~ mobilehome or manufactured home and the prospective*
23 *buyer or tenant is provided with a copy of the order.*

24 *(1) If the ~~motor vehicle, mobile home, recreational vehicle,~~*
25 *~~boat, or trailer~~ mobilehome or manufactured home is subject to a*
26 *sale, the prospective buyer shall acknowledge receipt of the*
27 *notice and a copy of the order specified in this subdivision before*
28 *taking possession of the ~~motor vehicle, mobile home,~~*
29 *~~recreational vehicle, boat, or trailer~~ mobilehome or manufactured*
30 *home and may cancel the purchase contract within five days after*
31 *receiving the notice.*

32 *(2) If the ~~motor vehicle, mobile home, recreational vehicle,~~*
33 *~~boat, or trailer~~ mobilehome or manufactured home is subject to a*
34 *rental, the notice and order specified in this subdivision shall be*
35 *attached to the rental agreement.*

36 *(3) If the owner does not comply with the requirements of this*
37 *subdivision, a prospective tenant may void the rental agreement*
38 *and a prospective buyer may void the purchase agreement.*

Article 5. Remediation of Contaminated Property by a City or
County

25400.30. (a) If a property owner does not initiate or complete the remediation of property in compliance with an order issued by a local health officer pursuant to this chapter, the ~~city or county in which the property is located may take action to~~ *city, county, or city and county in which the property is located may, at their discretion, take action to* remediate the residually contaminated portion of the property pursuant to this article or may seek a court order to require the property owner to remediate the property in compliance with this chapter.

(b) If a local health officer is unable to locate a property owner, including an owner of a mobile home or recreational vehicle space park, within 10 days after the date the local health officer issues an order pursuant to Section 25400.22, the ~~city or~~ *city, county, or city and county in which the property is located may* remediate the property in accordance with this article. The city or county or its contractors may remove *contaminated* property as part of this remediation activity.

(c) If a ~~city or~~ *city, county, or city and* county elects to remediate contaminated property pursuant to this article, the property owner is liable for, and shall pay the city or county for, all *actual* costs related to the remediation, including, but not limited to, all of the following:

- (1) Posting and physical security of the contaminated site.
- (2) Notification of affected people, businesses or any other entity.
- (3) ~~All~~ *Actual* expenses related to the recovery of cost, laboratory fees, cleanup services, removal costs, and administrative and filing fees.

(d) If a property owner does not pay the ~~city or~~ *city, county, or city and* county for the costs of remediation specified in subdivision (c), the ~~city or~~ *city, county, or city and* county may ~~file a lien against the property for the record a nuisance abatement lien pursuant to Section 38773.1 of the Government Code against the property for~~ the *actual* costs related to the remediation or bring an action against the property owner for the remediation costs.

Article 6. Requirements for Property Assessment and Cleanup

1 25400.35. A local health officer shall establish a written plan
2 *consistent with this chapter* outlining the procedures to be
3 followed for conducting ~~a~~ *the* remediation to property for
4 purposes of this chapter. The procedures shall comply with this
5 article and any regulations adopted pursuant to this chapter, and
6 shall include, but not limited to, procedures for the preparation of
7 a preliminary site assessment work plan, the conduct of a
8 preliminary site assessment to determine the extent and level of
9 contamination, in accordance with that PSA work plan, and the
10 preparation of a PSA report containing the results of the
11 preliminary site assessment and recommendations for
12 remediation to meet the occupancy standards specified in Section
13 25400.15 or 252400.16, as applicable.

14 25400.36. The PSA work plan shall include, but is not limited
15 to, all of the following:

16 (a) The physical location of the property.

17 (b) A summary of the information obtained from law
18 enforcement, the local health officer, and other involved local
19 agencies. The summary shall include a discussion of the
20 information's relevance to the contamination, including areas
21 suspected of being contaminated, and may include all of the
22 following information:

23 (1) Duration of laboratory operation and number of batches
24 cooked or processed.

25 (2) ~~Drugs~~ *Hazardous chemicals* known to have been
26 manufactured.

27 (3) Recipes and methods used.

28 (4) Chemicals and equipment found, by location, *used in*
29 *connection with the manufacture or storage of the hazardous*
30 *chemicals.*

31 (5) Location of contaminated cooking and storage areas.

32 (6) Visual assessment of the severity of contamination inside
33 and outside of the structure where the laboratory was located.

34 (7) Assessment of contamination of adjacent rooms, units,
35 apartments or structures.

36 (8) Disposal methods observed at or near the site, including
37 dumping, burning, burial, venting, or drain disposal.

38 (9) A comparison of the chemicals on the manifest with
39 known methods of manufacture in order to identify other
40 potential contaminants.

(10) A determination as to whether the methamphetamine manufacturing method included the use of chemicals containing mercury or lead, including lead acetate, mercuric chloride, mercuric nitrate.

(c) A description of the areas to be sampled and the basis for the selection of the areas. This element of the PSA work plan shall also document the decision process used in determining not to sample particular areas. The PSA work plan shall consider both primary and secondary areas of concern.

(1) The primary areas of concern included in the work plan shall include all the following areas:

(A) Any area that has obvious staining *caused by the use or manufacture of hazardous chemicals*.

(B) Any processing or cooking area, with contamination caused by spills, boil-overs, explosions, or by chemical fumes and gases created during cooking. The area may include floors, walls, ceilings, glassware, and containers, working surfaces, furniture, carpeting, draperies and other textile products, plumbing fixtures and drains, heating and air conditioning vents.

(C) Any disposal area, including such indoor areas as sinks, toilets, bathtubs, plumbing traps and floor drains, vents, vent fans, and chimney flues and such outdoor areas that may be contaminated by dumping or burning on or near soil, surface water, groundwater, sewer or storm systems, septic systems, and cesspools.

(D) Chemical storage areas that may be contaminated by spills, leaks or open containers.

(2) The secondary areas of concern shall include all of the following:

(A) Any location where contamination may have migrated, including hallways or other high traffic areas.

(B) Common areas in multiple dwellings, and adjacent apartments or rooms, including floors, walls, ceilings, furniture, carpeting, light fixtures, blinds, draperies and other textile products.

(C) Common ventilation or plumbing systems in hotels and multiple dwellings.

(d) Sampling protocols, analytical methods and laboratories to use and their relevant certifications or accreditations.

1 (e) A description of areas and items that will be remediated in
2 lieu of sampling, if any.

3 25400.37. After a preliminary site assessment is completed in
4 accordance with the PSA work plan, a PSA report shall be
5 prepared and submitted to the local health officer. The PSA
6 report shall be thorough and specific in reporting findings and
7 recommendations and shall include all of the following:

8 (a) The location of the site, including the street address and
9 mailing address of the contaminated property, the owner of
10 record and mailing address, legal description, and clear directions
11 for locating the property.

12 (b) A site map, including a diagram of the contaminated
13 property. The diagram shall include floor plans of affected
14 buildings and local drinking water wells and nearby streams or
15 other surface waters, if potentially impacted, and shall show the
16 location of damage and contamination and the location of
17 sampling points used in the preliminary site assessment. All
18 sampling point locations shall be keyed to the sampling results
19 and remediation recommendations.

20 (c) A description of the sampling methods and analytical
21 protocols used in the preliminary site assessment.

22 (d) A description of the sampling results.

23 (e) Information regarding the background samples and results
24 obtained.

25 (f) Specific recommendations, including methods, for remedial
26 actions required to meet the human occupancy standards
27 specified in Section 25400.15 or 25400.16, as applicable,
28 including, but not limited to, any required decontamination,
29 demolition, or disposal.

30 (g) A plan for post remediation site assessment, including
31 specific sampling requirements and methodologies, and locations
32 at which samples are to be obtained.

33 25400.38. The PSA report shall be signed and notarized by
34 the contractor responsible for the completion of the preliminary
35 site assessment.

36
37 Article 7. Certification of Contractors
38

39 25400.40. (a) On and after July 1, 2007, a person shall not
40 perform remediation pursuant to this chapter, including any

1 decontamination, demolition, or disposal, unless the person is
2 issued a certificate as an authorized contractor by the department.

3 (b) On and after July 1, 2007, a person may advertise, offer to
4 undertake, or perform remediation pursuant to this chapter,
5 including, decontamination, demolition, or disposal work at an
6 illegal methamphetamine manufacturing or storage site only after
7 the person secures a certificate as an authorized contractor from
8 the department.

9 (c) On or before January 1, 2007, the department shall adopt
10 regulations establishing performance standards for authorized
11 contractors.

12 (d) The department may train and test, or may approve courses
13 to train and test, a contractor and a contractor's employees on the
14 essential elements in assessing property used as an illegal
15 methamphetamine manufacturing or storage site to determine
16 hazard reduction measures needed, techniques for adequately
17 reducing contaminants, use of personal protective equipment,
18 methods for proper decontamination, demolition, removal, and
19 disposal of contaminated property, and relevant federal and state
20 regulations. Upon successful completion of the training, the
21 department shall certify the contractor or employee of the
22 contractor.

23 (e) The department may require a contractor to successfully
24 complete annual refresher courses provided or approved by the
25 department for the continued certification of the contractor or
26 employee of the contractor.

27 (f) The department shall provide for reciprocal certification of
28 an individual trained to engage in remediation of illegal
29 methamphetamine manufacturing or storage sites, including
30 decontamination, demolition, or disposal work in another state, if
31 the prior training is shown to be substantially similar to the
32 training required by the department. The department may require
33 that individual to take an examination or refresher course before
34 certification.

35 (g) The department may deny, suspend, or revoke a certificate
36 for failure to comply with this chapter or a regulation adopted
37 pursuant to this chapter. The department may also deny, suspend,
38 or revoke a certificate on any of the following grounds:

1 (1) Failure to perform remediation, including decontamination,
2 demolition, or disposal work, under the supervision of trained
3 personnel.

4 (2) Failure to perform work that meets the requirements of the
5 department.

6 (3) Performing work under certification that was obtained by
7 error, misrepresentation, or fraud.

8 25400.41. The department may impose a civil penalty not to
9 exceed five hundred dollars (\$500) for each violation upon a
10 contractor who violates this chapter. Each day the violation
11 continues shall be considered a separate violation.

12 25400.42. The department shall require the payment of a fee
13 for the issuance and renewal of certificates, the administration of
14 examinations, and for the review of training courses in
15 accordance with all of the following:

16 (a) The department shall set the fee to cover the cost of
17 administering this article, including reproduction, necessary staff
18 travel, and administrative and legal support costs.

19 (b) A fee submitted to the department pursuant to this article is
20 nonrefundable and shall be paid in the form of a check or money
21 order made payable to the department.

22 (c) The department shall require the payment of any necessary
23 fee upon receipt of the contractor's application for an initial
24 certification or the renewal of a certification.

25 25400.43. The department shall maintain a list of authorized
26 illegal methamphetamine manufacturing or storage site
27 decontamination contractors. The department's authorized
28 contractor list shall be made available to local health officials and
29 other appropriate agencies semiannually and to the public upon
30 request.

31 Article 8. Enforcement and Liability

32
33 25400.45. (a) A property owner who does not provide a
34 notice or disclosure required by this chapter is subject to a civil
35 penalty in an amount of up to five thousand dollars (\$5,000). A
36 property owner shall also be assessed the full cost of all harm to
37 public health or to the environment resulting from the property's
38 owner's failure to comply with this chapter.
39

1 (b) A person who violates an order issued by a local health
2 officer pursuant to this chapter prohibiting the use or occupancy
3 of a property contaminated by a methamphetamine laboratory
4 activity is subject to a civil penalty in an amount of up to five
5 thousand dollars (\$5,000).

6 25400.46. (a) A property owner who receives an order issued
7 by a local health officer pursuant to Section 25400.22, or a
8 property owner who owns property that is the subject of a notice
9 posted pursuant to subdivision (h) of Section 25400.22, is liable
10 for, and shall pay all of the following costs *if it is determined that*
11 *the property is contaminated*:

12 (1) The cost of any testing ~~conducted to demonstrate the~~
13 ~~presence or absence of a hazardous chemical.~~

14 (2) Any cost related to maintaining records with regard to the
15 property.

16 (3) The cost of remediating the property, including any
17 decontamination or disposal expenses.

18 (4) Any *actual* cost incurred by the local health officer or any
19 other local or state agency resulting from enforcing of this
20 chapter and oversight of the implementation of the PSA work
21 plan and the PSA report, with regard to that property.

22 (b) A person who conducts a methamphetamine laboratory
23 activity on or at property, and who is not the owner of that
24 property, is liable for, and shall reimburse the owner of the
25 property for, any cost the property owner may incur pursuant to
26 subdivision (a).

27 SEC. 2. If the Commission on State Mandates determines that
28 this act contains costs mandated by the state, reimbursement to
29 local agencies and school districts for those costs shall be made
30 pursuant to Part 7 (commencing with Section 17500) of Division
31 4 of Title 2 of the Government Code.